



Paper No. 9

NAVAL MEDICAL RESEARCH CENTER
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OFFICE OF PETITIONS

DECISION ON PETITIONS

In re Application of
Lee et al.
Application No. 09/439,311
Filed: November 12, 1999
Attorney Docket No. 78,560
FOR: A RECOMBINANT POLYPEPTIDE FOR
USE IN THE MANUFACTURE OF VACCINES
AGAINST CAMPLYLOBACTER-INDUCED
DIARRHEA AND TO REDUCE
COLONIZATION

This is a decision on This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application and the petition under 37 CFR 1.182 to change the order of inventorship. Both petitions were filed on January 3, 2002 (certificate of mailing date December 18, 2001)

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

This application became abandoned for failure to timely reply to the Office action mailed March 1, 2001, which set a one month or 30 day period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on April 1, 2001. The filing of the petition under 37 CFR 1.137(b) precedes the mailing of A Notice of Abandonment.

The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Regarding the petition under 37 CFR 1.182, the file is being forwarded to the Office of Initial Patent Examination for changing the order of inventors from:

1. Lanfong H. Lee
2. Patricia Guerry

3. Edward Burg
4. Trevor J. Trust


to:

1. Patricia Guerry
2. Lanfong H. Lee
3. Edward Burg
4. Trevor J. Trust

Thereafter, the application will be returned to Technology Center A.U. 1645 for consideration of the amendment filed on January 3, 2002 (certificate of mailing date December 18, 2001).

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs slightly from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: SANA A PRATT
COUNSEL FOR INTELLECTUAL PROPERTY
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